

**NOT FOR PUBLICATION**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

MIDWEST WHOLESALE  
DISTRIBUTORS, INC.,

Plaintiff,

V.

AMERICAN FOOD & BEVERAGE  
CORPORATION, et al.,

Defendants.

CIVIL ACTION NO. 13-4004 (MLC)

# MEMORANDUM OPINION

**THE PLAINTIFF** brought this action to, inter alia, recover damages for breach of contract. (See dkt. entry no. 1, Compl.) The Clerk of the Court has entered default in favor of the plaintiff and against the defendants in accordance with Federal Rule of Civil Procedure (“Rule”) 55(a). (See unnumbered dkt. entry following dkt. entry no. 8.)

**THE PLAINTIFF** now moves pursuant to Rule 55(b)(2) for entry of judgment by default in its favor and against the defendants. (See dkt. entry no. 9, Notice of Mot.) The plaintiff has submitted proof of damages in support of the motion. (See dkt. entry no. 1-2, Defs. 10-11-12 Money-Wiring Instructions; dkt. entry no. 1-2, Pl. Bank Account Summary at 3 (reflecting money transfer at issue); dkt. entry no. 9-1, Pl. Decl.) The plaintiff seeks: (1) monetary damages in the amount of \$104,690; and (2) “post-judgment interest at a rate of 2.25% as allowed under New Jersey Law”. (See Notice of Mot. at 2; see also dkt. entry no. 9-2, Proposed J. (seeking “post-judgment interest at a rate of 2.25% pursuant to New Jersey law running from the date of this Judgment”).)

**THE DEFENDANTS** have not opposed the motion, even though (1) the return date was several weeks ago, and (2) the plaintiff has demonstrated that the defendants were properly served with the motion. (See dkt. entry no. 9-3, Certificate of Service.) It does not appear, from the Court's independent review of the relevant Westlaw databases, that the defendants have pending petitions for bankruptcy protection. The Court will decide the motion without oral argument. See L.Civ.R. 78.1(b).

**THE PART OF THE MOTION** seeking monetary damages in the amount of \$104,690 will be granted. The part of the motion seeking post-judgment interest will be granted insofar as it seeks to impose post-judgment interest, but the Court — in an exercise of discretion and for ease of calculation — will utilize the statutory rate set forth in 28 U.S.C. § 1961.

**THE COURT** notes that the defendants have an available avenue to contest the entry of judgment, if appropriate. See Fed.R.Civ.P. 55(c) (stating court “may set aside a default judgment under Rule 60(b)”); see also Fed.R.Civ.P. 60(b) (setting forth grounds for relief from final judgment). For good cause appearing, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper  
**MARY L. COOPER**  
United States District Judge

Dated: May 20, 2014